

REMARKS

The foregoing amendments and the following remarks are responsive to the July 18, 2007 Office Action. Claims 51-55, 63-70, 75-81, 89, 90, and 124-128 remain pending in the present Application.

In response to the Office Action mailed July 18, 2007, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

O'Geary Does Not Disclose the Medical Basin Recited By Claims 51-55 and 81

Claims 51-55 and 81 stand rejected under 35 U.S.C. § 102(b) as being anticipated by O'Geary (U.S. Patent No. 6,609,257) ("O'Geary"). Applicant respectfully traverses the present rejection.

Applicant recognizes that the Examiner has indicated that the drawings of the O'Geary reference show contoured recesses that are offset from the midpoints of the walls in which they are disposed. Applicant respectfully disagrees.

Firstly, Applicant would like to note that nothing in the text of the O'Geary references indicates that the recesses should be offset. Rather, the Examiner's position relies solely on proportions in the drawings. However, Applicant submits that it has long been established that the Examiner may not rely on a measurement of the drawings of the prior art reference unless the reference indicates that its drawings are drawn to scale.

In the present case, the O'Geary reference does not indicate that the drawings are to scale. Thus, Applicant submits that the recesses of the O'Geary reference are not necessarily disposed with their axes offset from a midpoint of the walls upon which they are disposed. Thus, O'Geary fails to teach a medical basin having offset, contoured recesses.

In contrast, Claim 51 now recites, a "medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge, an upper periphery defined by the upper edge of the peripheral wall, a first contoured recess formed on a first side of the peripheral wall, the first side of the peripheral wall having a central axis passing through the midpoint of the first side and perpendicular to the first side, the midpoint of the first contoured recess offset from the central axis of the first side the first

contoured recess configured to receive a first portion of the human extremity on a first side of a joint in the extremity, and a second contoured recess formed opposite the first contoured recess on a second side of the peripheral wall of the basin, the first and second recesses having a common central axis passing through the middle of the first and second recesses, where the central axis of the first and second recesses is offset from the central axis of the first side, and the second contoured recess is configured to receive a second portion of the human extremity on a second side of the joint.”

For example, the non-limiting embodiment of Figure 2a of the present Application includes flanges 15, 16, a central axis extending through the middle of the flanges 15, 16 being offset from the central axis of the respective side walls.

The basin of O’Geary does not include such offset flanges and thus does not teach all the recitations of amended Claim 51. Thus, Applicant submits that Claim 51 clearly and non-obviously defines over the O’Geary reference.

Additionally, Applicant submits that Claims 52-55 also define over the cited reference, not only because they depend from Claim 51, but also on their own merit. Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of Claims 52-55 and pass these claims to allowance.

With regard to the rejection of Claim 81, Applicant submits that the only recessed portions disclosed by O’Geary are disposed on opposite side walls.

In contrast, Claim 81 now recites, a “medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge, an upper periphery defined by the upper edge of the peripheral wall, a first contoured recess formed on the upper periphery of a first side of the peripheral wall of the basin and configured to receive a first portion of the human extremity, and a second contoured recess formed on the upper periphery of the basin, the second contoured recess located on a second side of the peripheral wall **adjacent to and adjoining** the first side comprising the first contoured recess, the second contoured recess configured to receive a second portion of the human

extremity.” (emphasis added) A non-limiting embodiment of such a medical basin is illustrated in Figure 5 of the present application.

O’Geary does not disclose a medical basin having contours on adjoining sides of a peripheral wall, as the term is commonly used to denote neighboring, contiguous wall portions, and not a term of spatial distance. Accordingly, for at least this reason, Claim 81 clearly and nonobviously defines over the O’Geary reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 81 and pass this claim to allowance.

Meinecke Does Not Disclose the Medical Basin Recited By Claims 63-65, 67-70, 75, 81, 89, 124, and 128

Claims 63-65, 67-70, 75, 81, 89, 90, 124, and 128 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Meinecke (U.S. Patent No. 1,061,769) (“Meinecke”). Applicant respectfully traverses the present rejections.

Meinecke discloses a medical basin having a base **a**, an elevated front wall **a1**, and an elevated rear wall **a2** defining a cavity. As shown in Meinecke’s Figure 2, the surgical basin has a generally kidney shape. The front wall **a1** has the shape of the concave side of a kidney.

In contrast, Claim 63 recites, “A medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall and the base defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure and a contact region defined by a portion of the peripheral wall, having a generally concave shape recessed inwardly toward the cavity, and having two ends extending outwardly from the contact region, each of the ends disposed on either side of an axis spaced a distance outward from the contact region, the contact region.”

The basin of Claim 63 is different from a contact region having the shape of the concave side of a kidney, as evinced by paragraph **[0162]** of the present specification. This is unlike a kidney-shaped basin, such as that illustrated in Meinecke’s Figure 2, where the ends of the basin do not extend away from a contact region to surround an axis.

Thus, Meinecke fails to disclose or suggest the medical basin recited by Claim 63. Thus, Claim 63 clearly and nonobviously defines over the Meinecke reference.

Additionally, Applicant submits that Claims 64, 65, 67-70, 75, 124 and 128 define over the prior art, not only because they depend from Claim 63, but also on their own merit. Applicant

respectfully requests the Examiner withdraw the rejection of Claims 64, 65, 67-70, 75, 124, and 128 and pass these claims to allowance.

With regard to the rejection of Claim 81, Applicant would like to point out that Meinecke discloses a medical basin having a base **a**, a front wall **a1**, and a rear wall **a2** elevated above the height of the front wall defining a cavity. As shown in Meinecke's Figure 2, the surgical basin has a generally kidney shape. Meinecke, however, fails to disclose first and second curved recess disposed on adjacent walls.

In contrast, amended Claim 81 recites, a "medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising: a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge; an upper periphery defined by the upper edge of the peripheral wall; a first curved recess formed on the upper periphery of a first side of the peripheral wall of the basin and configured to receive a first portion of the human extremity; and a second curved recess formed on the upper periphery of the basin, the second curved recess located on a second side of the peripheral wall **adjacent to and adjoining** the first side comprising the first curved recess, the second curved recess configured to receive a second portion of the human extremity." (Emphasis added)

As noted above, Meinecke does not disclose a first curved recess and a second curved recess disposed on adjacent sides of a basin. The Examiner has indicated that "the term 'adjacent' does not require the sides are in direct contact with each other. Therefore, the opposite sides disclosed by Meinecke are adjacent to one another since they are nearby one another." Applicant submits that *adjacent and adjoining* walls as recited by Claim 81 are not disclosed by the *opposite* sides disclose by Meinecke. Therefore, for at least this reason, Meinecke does not disclose or suggest each and every element of Claim 81. Accordingly, Claim 81 clearly and nonobviously defines over the Meinecke reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 81 and pass this claim to allowance.

Additionally, Claim 89 defines over the prior art, not only because it depends from Claim 81, but also on its own merit. Applicant respectfully requests the Examiner withdraw the rejection of Claim 89 and pass this claim to allowance.

With respect to the rejection of Claim 90 Applicant would like to point out that Meinecke discloses a medical basing having a base and a peripheral wall. The base has two same-sized ends. The peripheral wall has a rim at its top. The rim of Meinecke is the same thickness around the entire top of the peripheral wall.

In contrast, amended Claim 90 recites “[a] medical basin for collecting fluid during irrigation of a wound on a portion of human anatomy, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the base having a generally kidney shape with a first end and a second end, the first end smaller than the second end, the peripheral wall having an outer edge, an inner edge formed on the peripheral wall, the inner edge recessed downwardly relative to the outer edge opposite the inner edge so that the inner edge is disposed lower than the outer edge, and a contact region defined by the inner edge and the outer edge of the peripheral wall, the contact region comprising an outwardly extending flange, wherein the flange extends further near the second end than the first end, and configured to receive the portion of human anatomy.”

A non-limiting embodiment of the medical basin recited in Claim 90 is illustrated in Figures 8 and 9 of the present Application. The kidney-shaped basin of Meinecke does not include such features. Further, nothing in Meinecke teaches or suggests such features.

Thus, for at least this reason, Meinecke does not disclose or suggest each and every element of Claim 90. Accordingly, Claim 90 clearly and nonobviously defines over the Meinecke reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 90 and pass this claim to allowance.

Claims 66 and 90 Are Not Obvious In View of Meinecke

Claims 66 and 90 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Meinecke. Applicant respectfully traverses the present rejection.

Claim 66

As noted above, Applicant submits that Claim 63 defines over the cited art. Applicant submits that Claim 66 also defines over the prior art, not only because it depends from Claim 63, but also on its own merit.

Claim 90

Claim 90 stands rejected as obvious in view of Meinecke, the Examiner indicating, "Meinecke discloses all aspects of the claimed invention with the exception of the peripheral wall defining a contact region that is thinner at an upper edge than at a lower portion, and the flange having a further extension near the second end. It would have been obvious [to make these aspects of the claimed invention] since the thickness of the wall and the extension of the flange do not serve any particular purpose or solve any stated problem, as it appears the invention will function equally well with either a thicker or thinner upper edge, or greater or less extension of the flange."

As explained in paragraphs [0200] of the specification, a medical basin can be used to irrigate a wound in a human where irrigation is performed on a portion of the hip. In such a situation, the patient is typically lying on their side, and the medical basin contacts the patient from a point above the hip to a point below the buttock. The human hip, having a natural contour, can create difficulty in attempting to mate a medical basin such as the kidney-shaped basin illustrated in Meinecke, to the contour without room for fluid to escape. As can be seen in one non-limiting embodiment in Figure 8, a medical basin having an extended flange towards a second end of the basin more closely follows the curve of the human hip. Accordingly, less fluid is permitted to escape during irrigation, offering a significant advantage over a medical basin without such a flange.

Claim 90 recites, "[a] medical basin for collecting fluid during irrigation of a wound on a portion of human anatomy, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the base having a generally kidney shape with a first end and a second end, the first end smaller than the second end, the peripheral wall having an outer edge, an inner edge formed on the peripheral wall, the inner edge recessed downwardly relative to the outer edge opposite the inner edge so that the inner edge is disposed lower than the outer edge, and a contact region defined by the inner edge and the outer edge of the peripheral wall, **the contact region comprising an outwardly extending flange, wherein the flange extends further near the second end than the first end**, and configured to receive a portion of

human anatomy.” (Emphasis added). For at least this reason, Applicant submits that Claim 90 clearly and non-obviously defines over the cited reference.

Holloway Does Not Make Obvious the Medical Basin Recited By Claims 76, 77, 79, 80, and 125-127

Claims 76, 77, 79, 80, and 125-127 stand rejected under 35 U.S.C. § 103(a) as being obvious over Holloway *et al.* (U.S. Patent No. 5,381,562) (“Holloway”). Applicant respectfully traverses the present rejection.

Holloway discloses a medical basin having a base 114 and a peripheral wall 112. The peripheral wall has an upper periphery 132. The upper periphery has four segments: two seats 136, 138, and two thumbholds 162, 163. The seats 136, 138 are disposed across the basin from each other, as seen in Figure 7, and the thumbholds 162, 163 are similarly disposed. The thumbholds 162, 163 are disclosed as being a part of a hand gripping means. Holloway column 8, lines 10-30 and column 11, lines 29-34.

As described, the thumbholds are a component of a means for gripping the basin, and are not sized to receive a surface of a human limb. Thus, the thumbholds are merely a flat location for gripping the basin even if they are, as the Examiner contends, partially curved.

In contrast, amended Claim 76 recites, a “medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge, an upper periphery defined by the upper edge of the peripheral wall, a first substantially semi-circular curved recess formed on the upper periphery and sized to receive a surface of a human limb, a second substantially semi-circular curved recess formed on the upper periphery of the basin and sized to receive a surface of a human limb; and a third substantially semi-circular curved recess formed on the upper periphery of the basin and sized to receive a surface of a human limb.”

The thumbholds of Holloway are simple flat recesses and have no curvature for forming a seal about a human limb. Even if they have a curved portion as the Examiner contends, they are not “a ... substantially semi-circular curved recess formed on the upper periphery and sized to receive a surface of a human limb,” as recited by amended Claim 76. Therefore, for at least this

reason, Holloway does not disclose or suggest each and every element of amended Claim 76. Accordingly, Claim 76 clearly and nonobviously defines over the cited reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 76 and pass this claim to allowance.

Additionally, Applicant submits that Claims 77, 79, 80, and 125-127 define over the prior art, not only because they depend from Claim 76, but also on their own merit. Applicant respectfully requests the Examiner withdraw the rejection of Claims 77, 79, 80, and 125-127 and pass these claims to allowance.

The Applied Combination of Holloway/Kress Does Not Make Obvious the Invention Recited By Claim 78

Claims 78 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Holloway in view of Kress. Applicant respectfully traverses the present rejection.

However, as noted above, Applicant submits that Claim 76 defines over the cited art. Applicant submits that Claim 78 also defines over the prior art, not only because it depends from Claim 76, but also on its own merit.

SUMMARY

For the reasons described above, Applicant respectfully request the Examiner withdraw the rejection of the claims and pass Claims 51-55, 63-70, 75-81, 89, 90, and 124-128 to allowance.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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